

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

AE

MICHAEL KONWINSKI,)
)
Plaintiff,)
)
v.) No. 06 C 2205
)
VILLAGE OF FRANKLIN PARK, et al.,)
)
Defendants.)

MEMORANDUM ORDER

Jack Krecker, one of the defendants in this action brought by Michael Konwinski ("Konwinski") under 42 U.S.C. §1983 as well as under state law, has contemporaneously filed a motion to dismiss First Amended Complaint ("FAC") Counts II and V and an Answer to the FAC's other counts. This memorandum order is issued sua sponte to require Krecker's counsel to correct some basic flaws in the latter pleading.

To begin with, Krecker's counsel has inexplicably failed to conform to the clear roadmap provided by Fed. R. Civ. P. ("Rule") 8(b)'s second sentence for the disclaimer that is necessary to obtain the benefit of a deemed denial--see App. ¶1 to State Farm Mut. Auto. Ins. Co. v. Riley, 199 F.R.D. 276, 278 (N.D. Ill. 2001). Quite apart from the oxymoronic nature of Krecker's nonconforming locution--how can someone "lack sufficient knowledge to admit or deny" a plaintiff's allegation and still "therefore den[y] same"?--Krecker's counsel must correct Answer ¶¶8, 14, 15, 17-20, 24 and 25 (all of which are hereby stricken)

by adhering to the more demanding requirement of Rule 8(b).

In another departure from a basic principle of federal pleading, Answer ¶36 purports to deny the corresponding allegations of FAC ¶36 because it "states a conclusion of law rather than facts." Krecker's counsel should know better,¹ but in all events his attention is drawn to App. ¶2 to State Farm and cases cited there. Answer ¶36 is also stricken.

This Court will not require the filing of a full-blown Amended Answer. Instead Krecker's counsel is ordered to file an appropriate amendment to the Answer on or before November 27, 2006, failing which the corresponding allegations of the FAC will be deemed to have been admitted.



Milton I. Shadur
Senior United States District Judge

Date: November 16, 2006

¹ It sometimes seems that lawyers are unaware that such inattention to (or perhaps lack of knowledge of) basics can generate a lack of judicial confidence in their other filings.